

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 1999-699

November 4, 1999

WPS ENERGY SERVICES, INC.
Application for License to Operate as a
Competitive Electricity Provider

ORDER GRANTING LICENSE
(CORRECTED)

WELCH, Chairman; NUGENT and DIAMOND, Commissioners

I. SUMMARY

In this Order, we license WPS Energy Services, Inc. to operate as a competitive electricity provider in Maine pursuant to Chapter 305 of the Commission's Rules.

II. APPLICATION

On October 1, 1999, WPS Energy Services, Inc. (WPS-ESI) applied to the Commission for a license to operate in Maine as a competitive electricity provider, as provided in Chapter 305. The Administrative Director determined that WPS-ESI's application was complete and sufficient to meet the filing requirements of Chapter 305 on October 1, 1999. WPS-ESI filed additional information on October 20, 1999, to supplement its earlier filing.

A. Type of Service Proposed

WPS-ESI proposes to provide retail electric services as a standard offer provider. WPS-ESI states it intends to "initially participate exclusively as a standard offer provider," but expects that it may seek to provide additional services in the future. WPS-ESI seeks a license to provide services in transmission and distribution utility service territories within the Maritimes Control area.

B. Fee Paid

With its application, WPS-ESI paid a \$100 fee to the Commission, as required by section 2(C)(5) of Chapter 305.

III. FINANCIAL ISSUES

WPS-ESI seeks a license as a standard offer provider in Maine. Accordingly, WPS-ESI does not have to furnish a security instrument to the Commission pursuant to section 2(B)(1)(c) of Chapter 305, but must comply with security requirements in Chapter 301 of the Commission's Rules if selected to provide standard offer service in Maine.

IV. TECHNICAL ISSUES

A. Showing of Technical Capability

WPS-ESI, to be licensed as a competitive electricity provider in Maine, must demonstrate it has the technical ability to enter necessary interconnection arrangements or contracts with Maine utilities, pursuant to section 2(B)(2)(a) of Chapter 305. In its application, WPS-ESI provided information demonstrating its ability to enter into such arrangements or contracts, although it stated it had not yet reached such agreements. Accordingly, WPS-ESI shall not act to enroll customers or provide generation service until all required contracts have been executed consistent with Commission rules. WPS-ESI shall notify the Commission when all such contracts have been executed.

Section 2(B)(2)(b) of Chapter 305 requires an applicant to demonstrate that it has the technical ability to secure generation or otherwise obtain and deliver electricity meeting all applicable requirements for the bulk power system control area in which the applicant would provide service. WPS-ESI filed information to demonstrate its technical capability to meet that requirement within the northern Maine portion of the Maritimes control area. We have reviewed that information and find that it complies with the requirements of Chapter 305.

B. Resource Portfolio

WPS-ESI, to be licensed as a competitive electricity provider in Maine, pursuant to section 2(B)(4) of Chapter 305, must demonstrate its ability to meet the resource portfolio requirement of 35-A M.R.S.A. § 3210 and the portfolio requirement reporting rules in Chapter 311 of the Commission's rules. WPS-ESI filed information to demonstrate its ability to meet these requirements. We have reviewed that information and find that it complies with the requirements of Chapter 305.

V. CONSUMER PROTECTION ISSUES

A. Do-Not-Call List

Chapter 305 section 4(l) states that “[t]he Commission will maintain or cause to be maintained a ‘Do-Not-Call’ list of customers who have requested -- orally, in writing, or by commercially accepted electronic means -- that they not receive telemarketing calls from competitive electricity providers.” We require that licensees use do-not-call list mechanisms already in place nationally to satisfy that requirement. To the extent that it telemarkets to Maine consumers, WPS-ESI shall comply with the following requirements.

WPS-ESI must comply with the requirements of the Telephone Consumer Protection Act,¹ the Telemarketing and Consumer Fraud and Abuse Prevention Act,² and related rules of the Federal Communications Commission³ and Federal Trade Commission.⁴ WPS-ESI must comply with those requirements and must maintain its own do-not-call list as required by those laws and rules, for all intrastate and interstate telemarketing of Maine consumers, including both residential and business customers. WPS-ESI shall not telemarket to Maine customers on that list, as required in Chapter 305 section 4(l)(1). WPS-ESI shall update its do-not-call list at least monthly, and maintain copies of that list for at least six months. WPS-ESI shall provide a copy of that list to the Commission upon request.

Further, each month, WPS-ESI must obtain listings of Maine consumers who have arranged to be included on the do-not-call list maintained by the Telephone Preference Service of the Direct Marketing Association, Inc.⁵ WPS-ESI shall not telemarket to Maine customers on that list, as required in Chapter 305 section 4(l)(1).

VI. ADDITIONAL PROVISIONS

WPS-ESI must comply with all applicable requirements and limitations in Chapter 305 not explicitly waived in this Order. WPS-ESI must also comply with all requirements and limitations in other applicable Commission rules, including any applicable future changes in Maine laws and Commission rules, and in other parts of this Order.

VII. ORDERING PARAGRAPHS

¹47 U.S.C. § 227

²15 U.S.C. §§ 6101-6108

³47 CFR 64.1200

⁴FTC Telemarketing Sales Rule, 16 CFR Part 310

⁵Telephone Preference Service, Direct Marketing Association, Inc., P.O. Box 9014, Farmingdale, NY 11735-9014

Accordingly, we

1. license WPS Energy Services, Inc. to operate as a competitive electricity provider to provide standard offer service in transmission and distribution utility service territories within the Maritimes Control area, pursuant to Chapter 305 of the Commission's Rules;
2. order WPS Energy Services, Inc. to comply with all Do-Not-Call List requirements contained in Part V(C) of this Order to the extent that it telemarkets to Maine consumers; and
3. order that this license is effective on the date of this Order and valid until revoked by the Commission pursuant to section 3(A)(4) of Chapter 305, or abandoned by the licensee pursuant to sections 2(C)(9) and 2(C)(11) of Chapter 305 of the Commission's Rules.

Dated at Augusta, Maine, this 4th day of November, 1999.

BY ORDER OF THE COMMISSION

Dennis L. Keschl
Administrative Director

COMMISSIONERS VOTING FOR: Welch

Nugent
Diamond

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R. 110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission to the Maine Supreme Judicial Court, sitting as the Law Court, is not available, as provided in 47 U.S.C. § 252(e)(6).
3. Review of this discussion is available to an aggrieved party by bringing an action in federal district court, as provided in 47 U.S.C. § 252(e)(6).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.